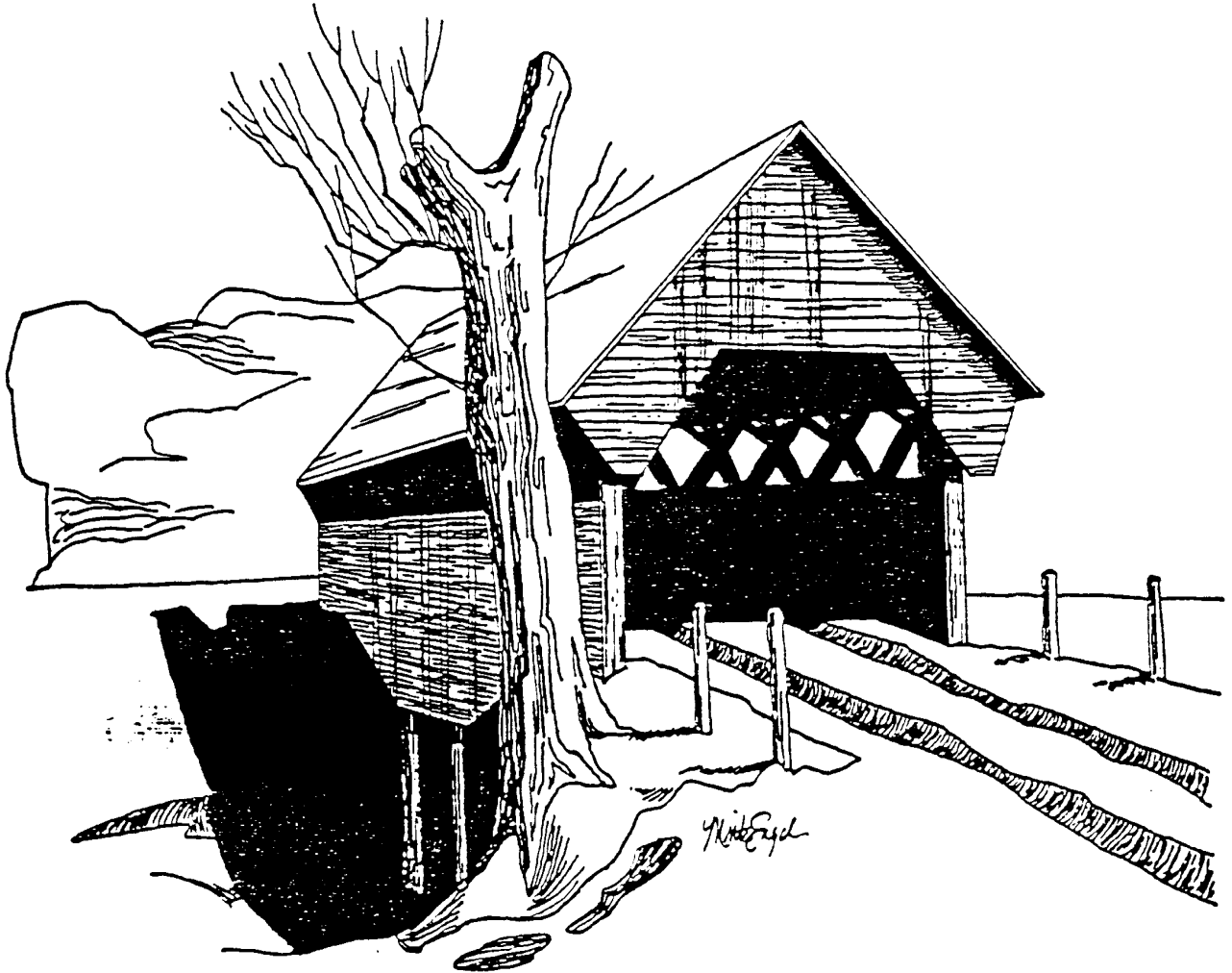


Natural Resource Management Guide

North Dakota Rural Development



“As a people we have conquered a continent and the frontier exists no more. No longer can we live off the land and move on. We must preserve and manage, for unlike our fathers we can no longer move on to unspoiled areas.”

JAMES LOCKHART
Artist & Conservationist

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Pen and Ink Cover Drawing
By Monte Engle, NDSHD
With Thanks

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March 9, 2001

NATURAL RESOURCE MANAGEMENT GUIDE
North Dakota Rural Development
Rural Utilities Service

I PURPOSE

A The Natural Resource Management Guide will enumerate the standards and review requirements that apply to land uses and environmental resources within the State of North Dakota. It is intended to supplement RUS Bulletin 1794A-602, Guide for Preparing the Environmental Report for Water and Waste Projects. The guide will outline USDA, Rural Development Rural Utilities Service policies and areas of concern with the environmental impact created by Agency actions.

II POLICY, CONTENT AND PURPOSE OF THE GUIDE

A Actions covered by this Guide include all financial assistance, subdivision approvals and other major actions such as proposals for legislation and the disposal of inventory property.

B Rural Development will consider environmental quality as equal with economic, social and other relevant factors in program development and decision-making processes.

C It provides Rural Development offices with a concise listing of the environmental and land use considerations and constraints that must be addressed in the review and approval of applications for funding assistance. It will serve as a planning tool for prospective applicants.

D The Natural Resource Management Guide shall become part of any program investment strategies developed by the State Director for the purpose of addressing rural needs of the State.

E The Natural Resource Management Guide will be an internal Agency planning tool with sensitivity to the Agency's mission.

III REQUIREMENTS

A In assessing the potential environmental impacts of its actions, Rural Development will **consult early** with appropriate federal, state and local agencies and other organizations to provide decisionmakers with both the technical and human aspects of environmental planning.

B When adverse environmental impacts are identified, either direct or indirect, an examination shall be made of **alternative courses of action** including their potential environmental impacts. The objective of the environmental review shall be to develop a feasible alternative with the least adverse environmental impact. The alternative of not proceeding with the proposal will also be considered, particularly with respect to the need for the proposal.

III REQUIREMENTS (Continued)

C If no feasible alternative exists, including the no-action alternative, measures to mitigate the identified adverse environmental impacts will be included in the proposal.

D The performance of environmental reviews and the consideration of alternatives will be initiated as early as possible in the Rural Development application review process so that the Agency will be in the most flexible and objective position to deal with these considerations.

E The Compact Community Development Policy of Rural Development will be to not approve proposals that extend beyond a community's existing settlement pattern, unless the following conditions are met:

1 The project is planned and sited in a manner consistent with the policies of the Farmland Protection Policy Act and United States Department of Agriculture Departmental Regulation 9500-3, Land Use Policy.

2 The project is not inconsistent with an existing comprehensive plan that guides growth and reflects a realistic strategy for protecting natural resources and the project is compatible, to the extent practicable, with State, unit of local government, and private programs and policies to protect farmland.

3 The project will encourage long-term economically viable public investment by fostering or promoting development patterns that ensure **compact community development**.

F It is recognized that some utility projects are designed to serve rural residents, such as rural water and waste disposal systems, and therefore cannot be limited in service areas contiguous with existing settlement patterns. These types of projects will be designed to primarily serve existing structures and rural residents in noncontiguous areas. Any additional capacity within the system will be limited to meet reasonable growth needs and, to the extent practicable, be designed to meet such needs within existing settlements and areas contiguous to them.

G Not only will the impact of individual projects be considered, but the cumulative effect of single projects that individually produce only insignificant effects will also be considered. These projects would include housing, water and sewer projects and also past Rural Development investments in programs of this type.

IV INTERGOVERNMENTAL REVIEW

A The process for state and local input into Rural Development programs is Executive Order 12372, Intergovernmental Review. All prospective applicants are required to complete the appropriate State consultation process prior to submitting an application to Rural Development.

B Applicants should submit their proposals to:

State Clearinghouse:

Division of Community Services
State Capitol Bldg., 14th Floor

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IV INTERGOVERNMENTAL REVIEW (Continued)

Metropolitan Clearinghouse:
(Jurisdiction-Cass County)
Fargo, Moorhead, Dilworth
West Fargo

Fargo-Moorhead Metropolitan
Council of Governments
1 North 2nd Street, Suite #232
Fargo, ND 58102
Telephone: (701) 232-3242

V FEDERAL MANDATES

A An inventory or listing shall be developed of the important land uses within the State. This inventory will be accomplished by assembling existing data and information compiled by those Federal, State and local agencies. At a minimum, the inventory shall consist of available documents, listings, maps, or graphic materials describing the location of the following:

- 1 Executive Order 11990, Protection of Wetlands
- 2 Executive Order 11988, Floodplain Management
- 3 Wilderness Act
- 4 Wild and Scenic Rivers Act
- 5 Historical and Archaeological Sites
- 6 Endangered Species Act
- 7 Coastal Barrier Resources Act
- 8 Natural Landmark
- 9 Important Farmland
- 10 Prime Forest Land
- 11 Prime Rangeland
- 12 Coastal Zone Management Act
- 13 Sole Source Aquifer Recharge Area
- 14 Air Quality
- 15 Water Quality
- 16 Hazardous Waste
- 17 Radon Gas
- 18 Underground Tanks
- 19 Sod Busting/Swamp Busting
- 20 Executive Order, Federal Actions to Address Environmental Justice in
Minority Populations and Low-Income Populations

VI LAND USE

A The State of North Dakota has not adopted a statewide land use policy; however, local jurisdictions with limited authority may have adopted policies.

VII IMPORTANT FARMLAND, PRIME RANGELAND AND FOREST LAND

A Level of Protection

1 The Farmland Protection Policy Act and Land Use Policy of the Department of Agriculture will be implemented on all actions to determine if the action would result in the conversion of an important land resource.

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VII IMPORTANT FARMLAND, PRIME RANGELAND AND FOREST LAND (Continued)

2 It is Rural Development's policy not to approve or fund any proposals that, as a result of their identifiable impacts, direct or indirect, would lead to or accommodate either the conversion of these land uses or encroachment upon them. The only exception to this policy is if the approving official determines that there is no practicable alternative to the proposed actions, the proposal conforms to the planning criteria, and the proposal includes all practicable measures for reducing the conversion or encroachment in accordance with the Farmland Protection Policy Act and United States Department of Agriculture Departmental Regulation 9500-3, Land Use Policy.

3 The Natural Resources Conservation Service (NRCS) in North Dakota has prepared an inventory of the prime farmland soils in the state. This inventory will be the basic data used to determine if a tract of land is prime farmland. The land could be cropland, pastureland, rangeland, forestland or other land, but not urban, built-up land. Published soil surveys prepared by NRCS will be used, and any changes in land classification must be obtained in writing from the Natural Resources Conservation Service.

B Agency jurisdiction and location of resource:

Natural Resources Conservation Service
PO Box 1458
Bismarck, ND 58502
Telephone: (701) 530-2006

VIII LANDMARKS, WILD AND SCENIC RIVERS, AND WILDERNESS AREAS

A Level of Protection

1 Projects shall be examined for conformance to the Wild and Scenic Rivers Act. A determination of whether the proposal would invade the river area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area is required. Consultation shall be initiated when the proposal: (1) would be located within one-quarter mile of the banks of the river, (2) involves withdrawing water from the river or discharging water to the river via a point source, or (3) would be visible from the river. Projects that will have an unavoidable adverse effect shall be denied. Maps and inventories of wild and scenic rivers are available for review in Rural Development State, Area, and Local Offices.

B Agency jurisdiction and location of resource:

National Park Service
700 Ray-O-Vac Drive

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IX FLOODPLAINS

A Level of Protection

1 Executive Order 11988, Floodplain Management, will be the general guideline in determinations regarding the effect of Agency actions when floodplains are involved.

2 It will be Rural Development's policy not to approve or fund any proposal that, as a result of their identifiable impacts, direct or indirect, would lead to or accommodate either the conversion of floodplains or encroachment upon them. The only exception to this policy is if the approving official determines that (1) there is no practicable alternatives to the proposed action, (2) the proposal includes all practicable measures for reducing the conversion/encroachments, and (3) the proposal conforms to the planning criteria identified in RUS Instruction 1794, Environmental Policies and Procedures.

3 Floodplain guidelines will be the most current Flood Insurance Rate Map or Flood Insurance Study issued for the project area by the Federal Emergency Management Agency (FEMA).

4 Flood Hazard Boundary and Flood Insurance Maps supplied by FEMA are available for review in Rural Development State, Area, and Local Offices. If a FEMA floodplain map has not been prepared for the project area, additional assistance may be available from the following agencies:

Natural Resources Conservation Service
PO Box 1458
Bismarck, ND 58502
Telephone: (701) 530-2006

U.S. Geological Survey
821 East Interstate
Bismarck, ND 58501
Telephone: (701) 250-7400

Dakota Prairie Grasslands
240 West Century Avenue
Bismarck, ND 58503
Telephone: (701) 250-4443

Army Corps of Engineers
North Dakota Regulatory Field Office
1513 South 12th Street
Bismarck, ND 58504

Telephone: (701) 255-0015

ND State Water Commission
900 East Boulevard
Bismarck, ND 58505
Telephone: (701) 328-2750

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IX FLOODPLAINS (Continued)

B Agency jurisdiction and location of resource:

Federal Emergency Management Agency
Map Service Center
PO Box 1038
Jessup, MD 20795-1038
Toll Free Number: (800) 358-9616

Federal Emergency Management Agency
Denver Federal Center
Building 710 , Box 25267
Denver, CO 80255-0267
Telephone: (303) 235-4812

X WETLANDS

A Level of Protection

1 Executive Order 11990, Protection of Wetlands, will be the general guideline to follow in determinations regarding the effect of Agency actions when wetlands are involved. It is Rural Development's policy not to approve or fund any proposals that, as a result of their identifiable impacts, direct or indirect, would lead to or accommodate either the conversion of wetland or encroachment upon them. The only exception to this policy is if the approving official determines that (1) there is no practicable alternative to the proposed action, and (2) the proposal includes all practicable measures for reducing the conversion/encroachment.

2 Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

B Agency jurisdiction and location of resource:

Wetland Coordinator
U.S. Fish & Wildlife Service
PO Box 25486
Denver Federal Center
Denver, CO 80225
Telephone: (303) 234-4616

Wetlands Coordinator
U.S. Fish & Wildlife Service
3425 Miriam Avenue
Bismarck, ND 58501
Telephone: (701) 250-4418

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XI HISTORICAL/CULTURAL AND ARCHAEOLOGICAL SITES

A Level of Protection

1 Projects shall be examined for conformance to the National Historic Preservation Act and the Archaeological and Historic Preservation Act. The National Registers will be examined for the project's potential to affect historic sites. Consultation with the State Historic Preservation Officer (SHPO) and the Tribal Historic Preservation Officer (THPO) will be initiated in accordance with RUS Bulletin 1794A-602.

2 In addition, all Class I and Class II assessments and projects submitted for clearinghouse review will be submitted to the State Historic Preservation Office (SHPO) and the Tribal Historic Preservation Office (THPO), to addresses below, for review and comment. These comments shall become a part of the environmental assessment.

B Agency jurisdiction and location of resource:

National Park Service
Midwest Region
1709 Jackson Street
Omaha, NE 68102
Telephone: (402) 221-3428

National Forest Service
Northern Region
Federal Building
PO Box 7669
Missoula, MT 59807
Telephone: (406) 329-3520

Dakota Prairie Grasslands
240 West Century Avenue
Bismarck, ND 58503
Telephone: (701) 250-4443

Advisory Council on Historic Preservation
12136 West Bayaud Avenue
Suite 330

Lakewood, CO 80228
Telephone: (303) 969-5110

State Historic Preservation Officer
State Historical Society
North Dakota Heritage Center
612 East Boulevard Avenue
Bismarck, ND 58505-0830
Telephone: (701) 328-3576

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XI HISTORICAL, CULTURAL AND ARCHAEOLOGICAL SITES (Continued)

Tribal Historic Preservation Officer
Tribal Historic Preservation Office
Standing Rock Sioux Tribe
Tribal Planning Office
PO Box D
Fort Yates, ND 58538
Telephone: (701) 845-2120

Tribal Historic Preservation Officer
Tribal Historic Preservation Office
Turtle Mountain Band of Chippewa Indians
PO Box 900
Belcourt, ND 58316
Telephone: (701) 477-0471

XII BIOLOGICAL RESOURCES; CRITICAL HABITAT; ENDANGERED AND
THREATENED SPECIES ACT

A Any action that may impact the continued existence of any plant or wildlife species or destroy or adversely modify the habitats of listed species existence listed by the Secretary of the Interior must comply with the consultation procedures required under Section 7 of the Endangered Species Act as specified in 50 CFR 402. Rural Development will not authorize, fund or assist any project that does not meet the requirements of this act. Lists for the above are available in all Rural Development offices.

B Agency jurisdiction and location of resource:

U.S. Fish & Wildlife Service
3425 Miriam Avenue
Bismarck, ND 58501
Telephone: (701) 250-4402

U.S. Fish & Wildlife Service
Mountain-Prairie Region
Lake Plaza North
134 Union Boulevard

Mailing Address:
U.S. Fish & Wildlife Service
Mountain-Prairie Region
Denver Federal Center
PO Box 25486

Lakewood, CO 80228-1807
Telephone: (303) 236-7920

Denver, CO 80225-0286
Telephone: (303) 236-7920

North Dakota State Health Department
Division of Water Quality
1200 Missouri Avenue
PO Box 5520
Bismarck, ND 58505-5520
Telephone: (701) 328-5210

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XIII WATER QUALITY

A Level of Protection

1 Project withdrawals and/or effluent discharges, including runoff, will be examined for conformance to the Water Pollution Control Act and the Safe Drinking Water Act.

B Agency jurisdiction and location of resource:

North Dakota State Health Department
Division of Water Quality
1200 Missouri Avenue
PO Box 5520
Bismarck, ND 58505-5520
Telephone: (701) 328-5210

XIV SOLE SOURCE AQUIFER RECHARGE AREA

A North Dakota has no sole source aquifers.

XV COASTAL RESOURCES; COASTAL BARRIER RESOURCES SYSTEM; COASTAL ZONE MANAGEMENT AREA

A North Dakota has no coastal resources, coastal barrier resources system and no coastal zone management areas.

XVI ENVIRONMENTAL JUSTICE

A Executive Order (EO) 12989, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, addresses environmental justice concerns. Per memorandum of the President, the Federal Agency shall analyze environmental effects, including human health, economic and social effects, of Federal actions, including effects on minority communities and low-income communities. The

Council on Environmental Quality (CEQ) has oversight of the Federal Government's compliance with EO 12989 and National Environmental Policy Act (NEPA).

B Any minority populations and low-income populations located within the area of potential effects should be identified and a determination made as to whether any may be disproportionately affected by the project.

XVII AIR QUALITY

A Level of Protection

1 Project emissions, including those created by potential secondary beneficiaries, shall be examined for conformance to the Clean Air Act and the Environmental Protection Agency's National Primary and Secondary Ambient Air Quality Standards.

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XVII AIR QUALITY (Continued)

B There are presently no non-attainment areas in North Dakota.

C Agency jurisdiction and location of resource:

North Dakota State Health Department
Division of Environmental Engineering
1200 Missouri Avenue
PO Box 5520
Bismarck, ND 58505-5520
Telephone: (701) 328-5188

XVIII NOISE

A Level of Protection

1 Potential noise created by a project and the ambient noise impacts on the human environment must be considered in accordance with Section 102 (2)(c) of the National Environmental Policy Act. Day-night average sounds have a not-to-exceed decibel level.

2 A noise assessment will follow 1983 Housing and Urban Development (HUD) Noise Assessment guidelines.

B Agency jurisdiction and location of resource:

USDA, Rural Development
Rodney L. Beck, PE, State Engineer
Federal Building, 220 E Rosser Avenue
PO Box 1737
Bismarck, ND 58502-1737
Telephone: (701) 530-2069

XIX HAZARDOUS WASTE

A Level of Protection

1 Resource Conservation and Recovery Act of 1976 (RCRA) was designed to create guidelines for prudent hazardous waste management and disposal. It provides the government with a tracking system for the regulations of hazardous waste from generation to disposal.

2 Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (SUPERFUND) gave the Government authority to respond to emergencies involving uncontrolled releases of hazardous substances and to develop solutions for the most serious hazardous waste problems. Any release or threatened release of a reportable quantity of a hazardous substance must be reported to Environmental Protection Agency (EPA). The "hot line" phone number is 800-424-8802.

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XIX HAZARDOUS WASTE (Continued)

3 Superfund Amendments and Reauthorization Act of 1986 (SARA) required the Environmental Protection Agency to publish a list of extremely hazardous substances. It also increased the enforcement authority of EPA and strengthened the emergency program to protect the environment from any immediate threats posed by a hazardous site.

The Act also established the requirements for the state and local programs to provide the public and local governments with information concerning potential chemical hazards present in their communities. The Governor has established the State Emergency Response Commission to comply with this requirement.

4 Hazardous waste is a rapidly changing field and it is anticipated that EPA and the State will be issuing additional regulations.

B Agency jurisdiction and location of resource:

Environmental Protection Agency, Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466
Telephone: (303) 312-6312
Toll Free Number: 1-800-227-8917

North Dakota State Department of Health
Division of Waste Management
1200 Missouri Avenue
PO Box 5520
Bismarck, ND 58502-5520
Telephone: (701) 328-5166

Doug Friez
State Coordinating Officer
Division of Emergency Management
PO Box 5511
Bismarck, ND 58506-5511
Telephone: (701) 328-8110

XX RADON GAS

A Level of Protection

1 Uranium Mill Tailing Radiation Control Act of 1978, Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA): Radon is a naturally occurring invisible, odorless radioactive gas produced by the decay of uranium and radium in the soil. Radon gas breaks down into solid radioactive particles called radon "progeny" or "daughters." Exposure to high levels of progeny can damage sensitive bronchial tissue in the lungs, increasing the potential of developing lung cancer.

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XX RADON GAS (Continued)

2 Measurement of radon decay products are reported as "Working Levels" (WL). Results from devices which measure concentrations of radon gas are reported as "picocuries per liter" (pCi/l) (1 WL = 200 pCi/l). EPA considers 4 pCi/l or 0.02 WL as slightly above average for residential structures. More research is required to determine an action level that will be acceptable to all national authorities.

B Agency jurisdiction and location of resource:

Environmental Protection Agency
999 18th Street, Suite 300
Denver, CO 80202-2466
Telephone: (303) 312-6312
Toll Free Number: 1-800-227-8917

North Dakota State Department of Health
Division of Environmental Engineering
1200 Missouri Avenue
PO Box 5520
Bismarck, ND 58502-5520
Telephone: (701) 328-5188

XXI UNDERGROUND TANKS

A Level of Protection

1 The Resource Conservation and Recovery Act (RCRA), as amended, requires that, unless exempted, owners of underground tanks that store regulated substances must notify the designated State Agency of the existence of the tanks.

B Agency jurisdiction and location of resource:

North Dakota State Department of Health
Division of Waste Management
1200 Missouri Avenue
PO Box 5520
Bismarck, ND 58502-5520
Telephone: (701) 328-5166

XXII CUMULATIVE IMPACT CONSIDERATIONS

A The assessment of Cumulative Impacts in NEPA documents are required by Council on Environmental Quality regulations (CEQ 1987).

B Environmental reviews must pay special attention to projects that could create cumulative impacts. A single project may not have any or very little direct impact but may produce many indirect impacts. Rural Development programs that may have cumulative effects include:

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XXII CUMULATIVE IMPACT CONSIDERATIONS (Continued)

1 The demand for Rural Development community loans is in the funding of domestic water and wastewater projects. The wastewater projects are in conjunction with Environmental Protection Agency working through the State Department of Health, Community Facilities and Water Quality Divisions. The State of North Dakota has assumed primacy of the EPA grant program and administers this program.

2 There is also a demand for municipal and rural water systems in the State. The projects consist of new water systems, updating present water systems and extending present distribution systems. There are presently 30 rural water systems in the State that supply water to rural residents.

C In each project funded, a study is made to determine growth potential that may have a deleterious effect by contributing to urban sprawl and other environmental effects such as the use of prime farmland or encroachment on wetlands. It is our opinion that water and wastewater systems generally improve the use of the land and contribute to more favorable environmental conditions.

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